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1  
2 An act relating to the education for children in  
3 shelter care or foster care and exceptional students;  
4 amending s. 39.0016, F.S.; defining the term  
5 "surrogate parent"; requiring the Department of  
6 Education and district school boards to access the  
7 Florida Safe Families Network to obtain information  
8 about children known to the Department of Children and  
9 Family Services; providing legislative intent;  
10 providing conditions and requirements for district  
11 school superintendent or court appointment of a  
12 surrogate parent for educational decisionmaking for a  
13 child who has or is suspected of having a disability;  
14 providing requirements for educational placement;  
15 providing requirements relating to qualifications and  
16 responsibilities of surrogate parents; limiting  
17 liability; amending s. 39.202, F.S.; providing for  
18 access to certain records to liaisons between school  
19 districts and the Department of Children and Family  
20 Services; amending s. 39.402, F.S.; requiring access  
21 to a child's medical records and educational records  
22 if a child is placed in a shelter; authorizing  
23 appointment of a surrogate parent; amending s. 39.701,  
24 F.S.; requiring the court and citizen review panel in  
25 judicial reviews to consider testimony by a surrogate  
26 parent for educational decisionmaking; providing for  
27 additional deliberations relating to appointment of an  
28 educational decisionmaker; requiring certain  
29 documentation relating to the educational setting;

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30 amending s. 1003.21, F.S.; providing access to free  
31 public education for children known to the department;  
32 authorizing a temporary exemption relating to school  
33 attendance; amending s. 1003.22, F.S.; authorizing a  
34 temporary exemption from school-entry health  
35 examinations for children known to the department;  
36 amending s. 1003.57, F.S.; providing definitions;  
37 requiring the Department of Children and Family  
38 Services, the Agency for Health Care Administration,  
39 and residential facilities licensed by the Agency for  
40 Persons with Disabilities to notify certain school  
41 districts following the placement of an exceptional  
42 student in a private residential care facility;  
43 requiring that an exceptional student be enrolled in  
44 school; requiring review of the student's individual  
45 educational plan; providing for determining  
46 responsibility for educational instruction; requiring  
47 the school district to report the student for funding  
48 purposes; requiring the Department of Education, in  
49 consultation with specified agencies, to develop  
50 procedures for the placement of students in  
51 residential care facilities; requiring the State Board  
52 of Education to adopt rules; requiring a cooperative  
53 agreement between the Department of Education and  
54 agencies, to be executed on or before January 1, 2010;  
55 prescribing conditions and requirements for the  
56 agreement; providing an effective date.

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58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Children known to the department" means children who are found to be dependent or children in shelter care.

(b) "Department" means the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

(c) "Surrogate parent" means an individual appointed to act in the place of a parent in educational decisionmaking and in safeguarding a child's rights under the Individuals with Disabilities Education Act and this section.

~~(2) The provisions of this section establish goals and not rights. This section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person may not maintain a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents based upon this section becoming law or failure by the Legislature to provide adequate funding for the achievement of these goals. This section does not require the expenditure of funds to meet the goals established in this section except funds specifically appropriated for such purpose.~~

(2) AGENCY AGREEMENTS.—

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88           ~~(a)(3)~~ The department shall enter into an agreement with  
89 the Department of Education regarding the education and related  
90 care of children known to the department. Such agreement shall  
91 be designed to provide educational access to children known to  
92 the department for the purpose of facilitating the delivery of  
93 services or programs to children known to the department. The  
94 agreement shall avoid duplication of services or programs and  
95 shall provide for combining resources to maximize the  
96 availability or delivery of services or programs. The agreement  
97 must require the Department of Education to access the  
98 department's Florida Safe Families Network to obtain information  
99 about children known to the department, consistent with the  
100 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
101 1232g.

102           ~~(b)(4)~~ The department shall enter into agreements with  
103 district school boards or other local educational entities  
104 regarding education and related services for children known to  
105 the department who are of school age and children known to the  
106 department who are younger than school age but who would  
107 otherwise qualify for services from the district school board.  
108 Such agreements shall include, but are not limited to:

109           ~~1.(a)~~ A requirement that the department shall:

110           ~~a.1.~~ Enroll children known to the department in school. The  
111 agreement shall provide for continuing the enrollment of a child  
112 known to the department at the same school, if possible, with  
113 the goal of avoiding disruption of education.

114           ~~b.2.~~ Notify the school and school district in which a child  
115 known to the department is enrolled of the name and phone number  
116 of the child known to the department caregiver and caseworker

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117 for child safety purposes.

118 ~~c.3.~~ Establish a protocol for the department to share  
119 information about a child known to the department with the  
120 school district, consistent with the Family Educational Rights  
121 and Privacy Act, since the sharing of information will assist  
122 each agency in obtaining education and related services for the  
123 benefit of the child. The protocol must require the district  
124 school boards or other local educational entities to access the  
125 department's Florida Safe Families Network to obtain information  
126 about children known to the department, consistent with the  
127 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
128 1232g.

129 ~~d.4.~~ Notify the school district of the department's case  
130 planning for a child known to the department, both at the time  
131 of plan development and plan review. Within the plan development  
132 or review process, the school district may provide information  
133 regarding the child known to the department if the school  
134 district deems it desirable and appropriate.

135 ~~2.(b)~~ A requirement that the district school board shall:

136 ~~a.1.~~ Provide the department with a general listing of the  
137 services and information available from the district school  
138 board, ~~including, but not limited to, the current Sunshine State~~  
139 ~~Standards, the Surrogate Parent Training Manual, and other~~  
140 ~~resources accessible through the Department of Education or~~  
141 ~~local school districts~~ to facilitate educational access for a  
142 child known to the department.

143 ~~b.2.~~ Identify all educational and other services provided  
144 by the school and school district which the school district  
145 believes are reasonably necessary to meet the educational needs

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146 of a child known to the department.

147 ~~c.3.~~ Determine whether transportation is available for a  
148 child known to the department when such transportation will  
149 avoid a change in school assignment due to a change in  
150 residential placement. Recognizing that continued enrollment in  
151 the same school throughout the time the child known to the  
152 department is in out-of-home care is preferable unless  
153 enrollment in the same school would be unsafe or otherwise  
154 impractical, the department, the district school board, and the  
155 Department of Education shall assess the availability of  
156 federal, charitable, or grant funding for such transportation.

157 ~~d.4.~~ Provide individualized student intervention or an  
158 individual educational plan when a determination has been made  
159 through legally appropriate criteria that intervention services  
160 are required. The intervention or individual educational plan  
161 must include strategies to enable the child known to the  
162 department to maximize the attainment of educational goals.

163 ~~3.(e)~~ A requirement that the department and the district  
164 school board shall cooperate in accessing the services and  
165 supports needed for a child known to the department who has or  
166 is suspected of having a disability to receive an appropriate  
167 education consistent with the Individuals with Disabilities  
168 Education Act and state implementing laws, rules, and  
169 assurances. Coordination of services for a child known to the  
170 department who has or is suspected of having a disability may  
171 include:

172 ~~a.1.~~ Referral for screening.

173 ~~b.2.~~ Sharing of evaluations between the school district and  
174 the department where appropriate.

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175 ~~c.3.~~ Provision of education and related services  
176 appropriate for the needs and abilities of the child known to  
177 the department.

178 ~~d.4.~~ Coordination of services and plans between the school  
179 and the residential setting to avoid duplication or conflicting  
180 service plans.

181 ~~e.5.~~ Appointment of a surrogate parent, consistent with the  
182 Individuals with Disabilities Education Act and pursuant to  
183 subsection (3), for educational purposes for a child known to  
184 the department who qualifies ~~as soon as the child is determined~~  
185 ~~to be dependent and without a parent to act for the child. The~~  
186 ~~surrogate parent shall be appointed by the school district~~  
187 ~~without regard to where the child known to the department is~~  
188 ~~placed so that one surrogate parent can follow the education of~~  
189 ~~the child known to the department during his or her entire time~~  
190 ~~in state custody.~~

191 ~~f.6.~~ For each child known to the department 14 years of age  
192 and older, transition planning by the department and all  
193 providers, including the department's independent living program  
194 staff, to meet the requirements of the local school district for  
195 educational purposes.

196 (c) This subsection establishes standards and not rights.  
197 This subsection does not require the delivery of any particular  
198 service or level of service in excess of existing  
199 appropriations. A person may not maintain a cause of action  
200 against the state or any of its subdivisions, agencies,  
201 contractors, subcontractors, or agents based upon this  
202 subsection becoming law or failure by the Legislature to provide  
203 adequate funding for the achievement of these standards. This

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204 subsection does not require the expenditure of funds to meet the  
205 standards established in this subsection except funds  
206 specifically appropriated for such purpose.

207 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

208 (a)1. The Legislature finds that disability is a natural  
209 part of the human experience and in no way diminishes the right  
210 of individuals to participate in or contribute to society.

211 Improving educational results for children with disabilities is  
212 an essential element of our public policy of ensuring equality  
213 of opportunity, full participation, independent living, and  
214 economic self-sufficiency for individuals with disabilities.

215 2. The Legislature also finds that research and experience  
216 have shown that the education of children with disabilities can  
217 be made more effective by:

218 a. Having high expectations for these children and ensuring  
219 their access to the general education curriculum in the regular  
220 classroom, to the maximum extent possible.

221 b. Providing appropriate exceptional student education,  
222 related services, and aids and supports in the least restrictive  
223 environment appropriate for these children.

224 c. Having a trained, interested, and consistent educational  
225 decisionmaker for the child when the parent is determined to be  
226 legally unavailable or when the foster parent is unwilling, has  
227 no significant relationship with the child, or is not trained in  
228 the exceptional student education process.

229 3. It is, therefore, the intent of the Legislature that all  
230 children with disabilities known to the department, consistent  
231 with the Individuals with Disabilities Education Act, have  
232 available to them a free, appropriate public education that

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233 emphasizes exceptional student education and related services  
234 designed to meet their unique needs and prepare them for further  
235 education, employment, and independent living and that the  
236 rights of children with disabilities are protected.

237 (b)1. Each district school superintendent or dependency  
238 court must appoint a surrogate parent for a child known to the  
239 department who has or is suspected of having a disability, as  
240 defined in s. 1003.01(3), when:

241 a. After reasonable efforts, no parent can be located; or

242 b. A court of competent jurisdiction over a child under  
243 this chapter has determined that no person has the authority  
244 under the Individuals with Disabilities Education Act, including  
245 the parent or parents subject to the dependency action, or that  
246 no person has the authority, willingness, or ability to serve as  
247 the educational decisionmaker for the child without judicial  
248 action.

249 2. A surrogate parent appointed by the district school  
250 superintendent or the court must be at least 18 years old and  
251 have no personal or professional interest that conflicts with  
252 the interests of the student to be represented. Neither the  
253 district school superintendent nor the court may appoint an  
254 employee of the Department of Education, the local school  
255 district, a community-based care provider, the Department of  
256 Children and Family Services, or any other public or private  
257 agency involved in the education or care of the child as  
258 appointment of those persons is prohibited by federal law. This  
259 prohibition includes group home staff and therapeutic foster  
260 parents. However, a person who acts in a parental role to a  
261 child, such as a foster parent or relative caregiver, is not

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262 prohibited from serving as a surrogate parent if he or she is  
263 employed by such agency, willing to serve, and knowledgeable  
264 about the child and the exceptional student education process.  
265 The surrogate parent may be a court-appointed guardian ad litem  
266 or a relative or nonrelative adult who is involved in the  
267 child's life regardless of whether that person has physical  
268 custody of the child. Each person appointed as a surrogate  
269 parent must have the knowledge and skills acquired by  
270 successfully completing training using materials developed and  
271 approved by the Department of Education to ensure adequate  
272 representation of the child.

273 3. If a guardian ad litem has been appointed for a child,  
274 the district school superintendent must first consider the  
275 child's guardian ad litem when appointing a surrogate parent.  
276 The district school superintendent must accept the appointment  
277 of the court if he or she has not previously appointed a  
278 surrogate parent. Similarly, the court must accept a surrogate  
279 parent duly appointed by a district school superintendent.

280 4. A surrogate parent appointed by the district school  
281 superintendent or the court must be accepted by any subsequent  
282 school or school district without regard to where the child is  
283 receiving residential care so that a single surrogate parent can  
284 follow the education of the child during his or her entire time  
285 in state custody. Nothing in this paragraph or in rule shall  
286 limit or prohibit the continuance of a surrogate parent  
287 appointment when the responsibility for the student's  
288 educational placement moves among and between public and private  
289 agencies.

290 5. For a child known to the department, the responsibility

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291 to appoint a surrogate parent resides with both the district  
292 school superintendent and the court with jurisdiction over the  
293 child. If the court elects to appoint a surrogate parent, notice  
294 shall be provided as soon as practicable to the child's school.  
295 At any time the court determines that it is in the best  
296 interests of a child to remove a surrogate parent, the court may  
297 appoint a new surrogate parent for educational decisionmaking  
298 purposes for that child.

299 6. The surrogate parent shall continue in the appointed  
300 role until one of the following occurs:

301 a. The child is determined to no longer be eligible or in  
302 need of special programs, except when termination of special  
303 programs is being contested.

304 b. The child achieves permanency through adoption or legal  
305 guardianship and is no longer in the custody of the department.

306 c. The parent who was previously unknown becomes known,  
307 whose whereabouts were unknown is located, or who was  
308 unavailable is determined by the court to be available.

309 d. The appointed surrogate no longer wishes to represent  
310 the child or is unable to represent the child.

311 e. The superintendent of the school district in which the  
312 child is attending school, the Department of Education contract  
313 designee, or the court that appointed the surrogate determines  
314 that the appointed surrogate parent no longer adequately  
315 represents the child.

316 f. The child moves to a geographic location that is not  
317 reasonably accessible to the appointed surrogate.

318 7. The appointment and termination of appointment of a  
319 surrogate under this paragraph shall be entered as an order of

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320 the court with a copy of the order provided to the child's  
321 school as soon as practicable.

322 8. The person appointed as a surrogate parent under this  
323 paragraph must:

324 a. Be acquainted with the child and become knowledgeable  
325 about his or her disability and educational needs.

326 b. Represent the child in all matters relating to  
327 identification, evaluation, and educational placement and the  
328 provision of a free and appropriate education to the child.

329 c. Represent the interests and safeguard the rights of the  
330 child in educational decisions that affect the child.

331 9. The responsibilities of the person appointed as a  
332 surrogate parent shall not extend to the care, maintenance,  
333 custody, residential placement, or any other area not  
334 specifically related to the education of the child, unless the  
335 same person is appointed by the court for such other purposes.

336 10. A person appointed as a surrogate parent shall enjoy  
337 all of the procedural safeguards afforded a parent with respect  
338 to the identification, evaluation, and educational placement of  
339 a student with a disability or a student who is suspected of  
340 having a disability.

341 11. A person appointed as a surrogate parent shall not be  
342 held liable for actions taken in good faith on behalf of the  
343 student in protecting the special education rights of the child.

344 (4)-(5) TRAINING.—The department shall incorporate an  
345 education component into all training programs of the department  
346 regarding children known to the department. Such training shall  
347 be coordinated with the Department of Education and the local  
348 school districts. The department shall offer opportunities for

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349 education personnel to participate in such training. Such  
350 coordination shall include, but not be limited to, notice of  
351 training sessions, opportunities to purchase training materials,  
352 proposals to avoid duplication of services by offering joint  
353 training, and incorporation of materials available from the  
354 Department of Education and local school districts into the  
355 department training when appropriate. The department training  
356 components shall include:

357 (a) Training for surrogate parents to include how an  
358 ability to learn of a child known to the department is affected  
359 by abuse, abandonment, neglect, and removal from the home.

360 (b) Training for parents in cases in which reunification is  
361 the goal, or for preadoptive parents when adoption is the goal,  
362 so that such parents learn how to access the services the child  
363 known to the department needs and the importance of their  
364 involvement in the education of the child known to the  
365 department.

366 (c) Training for caseworkers and foster parents to include  
367 information on the right of the child known to the department to  
368 an education, the role of an education in the development and  
369 adjustment of a child known to the department, the proper ways  
370 to access education and related services for the child known to  
371 the department, and the importance and strategies for parental  
372 involvement in education for the success of the child known to  
373 the department.

374 (d) Training of caseworkers regarding the services and  
375 information available through the Department of Education and  
376 local school districts, including, but not limited to, the  
377 current Sunshine State Standards, the Surrogate Parent Training

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378 Manual, and other resources accessible through the Department of  
379 Education or local school districts to facilitate educational  
380 access for a child known to the department.

381 Section 2. Paragraph (p) of subsection (2) of section  
382 39.202, Florida Statutes, is amended to read:

383 39.202 Confidentiality of reports and records in cases of  
384 child abuse or neglect.—

385 (2) Except as provided in subsection (4), access to such  
386 records, excluding the name of the reporter which shall be  
387 released only as provided in subsection (5), shall be granted  
388 only to the following persons, officials, and agencies:

389 (p) An employee of the local school district who is  
390 designated as a liaison between the school district and the  
391 department pursuant to an interagency agreement required under  
392 s. 39.0016 and the principal of a public school, private school,  
393 or charter school where the child is a student. Information  
394 contained in the records which the liaison or the principal  
395 determines are necessary for a school employee to effectively  
396 provide a student with educational services may be released to  
397 that employee.

398 Section 3. Subsection (11) of section 39.402, Florida  
399 Statutes, is amended to read:

400 39.402 Placement in a shelter.—

401 (11) (a) If a child is placed in a shelter pursuant to a  
402 court order following a shelter hearing, the court shall require  
403 in the shelter hearing order that the parents of the child, or  
404 the guardian of the child's estate, if possessed of assets which  
405 under law may be disbursed for the care, support, and  
406 maintenance of the child, to pay, to the department or

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407 institution having custody of the child, fees as established by  
408 the department. When the order affects the guardianship estate,  
409 a certified copy of the order shall be delivered to the judge  
410 having jurisdiction of the guardianship estate. The shelter  
411 order shall also require the parents to provide to the  
412 department and any other state agency or party designated by the  
413 court, within 28 days after entry of the shelter order, the  
414 financial information necessary to accurately calculate child  
415 support pursuant to s. 61.30.

416 (b) The court shall request that the parents consent to  
417 provide access to the child's medical records and provide  
418 information to the court, the department or its contract  
419 agencies, and any guardian ad litem or attorney for the child.  
420 If a parent is unavailable or unable to consent or withholds  
421 consent and the court determines access to the records and  
422 information is necessary to provide services to the child, the  
423 court shall issue an order granting access. The court may also  
424 order the parents to ~~The parent or legal guardian shall~~ provide  
425 all known medical information to the department and to any  
426 others granted access under this subsection.

427 (c) The court shall request that the parents consent to  
428 provide access to the child's educational records and provide  
429 information to the court, the department or its contract  
430 agencies, and any guardian ad litem or attorney for the child.  
431 If a parent is unavailable or unable to consent or withholds  
432 consent and the court determines access to the records and  
433 information is necessary to provide services to the child, the  
434 court shall issue an order granting access.

435 (d) The court may appoint a surrogate parent or may refer

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436 the child to the district school superintendent for appointment  
437 of a surrogate parent if the child has or is suspected of having  
438 a disability and the parent is unavailable pursuant to s.  
439 39.0016(3) (b).

440 Section 4. Subsection (8) of section 39.701, Florida  
441 Statutes, is amended to read:

442 39.701 Judicial review.—

443 (8) The court and any citizen review panel shall take into  
444 consideration the information contained in the social services  
445 study and investigation and all medical, psychological, and  
446 educational records that support the terms of the case plan;  
447 testimony by the social services agency, the parent, the foster  
448 parent or legal custodian, the guardian ad litem or surrogate  
449 parent for educational decisionmaking if one has been appointed  
450 for the child, and any other person deemed appropriate; and any  
451 relevant and material evidence submitted to the court, including  
452 written and oral reports to the extent of their probative value.  
453 These reports and evidence may be received by the court in its  
454 effort to determine the action to be taken with regard to the  
455 child and may be relied upon to the extent of their probative  
456 value, even though not competent in an adjudicatory hearing. In  
457 its deliberations, the court and any citizen review panel shall  
458 seek to determine:

459 (a) If the parent was advised of the right to receive  
460 assistance from any person or social service agency in the  
461 preparation of the case plan.

462 (b) If the parent has been advised of the right to have  
463 counsel present at the judicial review or citizen review  
464 hearings. If not so advised, the court or citizen review panel

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465 shall advise the parent of such right.

466 (c) If a guardian ad litem needs to be appointed for the  
467 child in a case in which a guardian ad litem has not previously  
468 been appointed or if there is a need to continue a guardian ad  
469 litem in a case in which a guardian ad litem has been appointed.

470 (d) Who holds the rights to make educational decisions for  
471 the child. If appropriate, the court may refer the child to the  
472 district school superintendent for appointment of a surrogate  
473 parent or may itself appoint a surrogate parent under the  
474 Individuals with Disabilities Education Act and s. 39.0016.(e).

475 ~~(d)~~ The compliance or lack of compliance of all parties  
476 with applicable items of the case plan, including the parents'  
477 compliance with child support orders.

478 (f)~~(e)~~ The compliance or lack of compliance with a  
479 visitation contract between the parent and the social service  
480 agency for contact with the child, including the frequency,  
481 duration, and results of the parent-child visitation and the  
482 reason for any noncompliance.

483 (g)~~(f)~~ The compliance or lack of compliance of the parent  
484 in meeting specified financial obligations pertaining to the  
485 care of the child, including the reason for failure to comply if  
486 such is the case.

487 (h)~~(g)~~ Whether the child is receiving safe and proper care  
488 according to s. 39.6012, including, but not limited to, the  
489 appropriateness of the child's current placement, including  
490 whether the child is in a setting that is as family-like and as  
491 close to the parent's home as possible, consistent with the  
492 child's best interests and special needs, and including  
493 maintaining stability in the child's educational placement, as

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494 documented by assurances from the community-based care provider  
495 that:

496 1. The placement of the child takes into account the  
497 appropriateness of the current educational setting and the  
498 proximity to the school in which the child is enrolled at the  
499 time of placement.

500 2. The community-based care agency has coordinated with  
501 appropriate local educational agencies to ensure that the child  
502 remains in the school in which the child is enrolled at the time  
503 of placement.

504 (i)~~(h)~~ A projected date likely for the child's return home  
505 or other permanent placement.

506 (j)~~(i)~~ When appropriate, the basis for the unwillingness or  
507 inability of the parent to become a party to a case plan. The  
508 court and the citizen review panel shall determine if the  
509 efforts of the social service agency to secure party  
510 participation in a case plan were sufficient.

511 (k)~~(j)~~ For a child who has reached 13 years of age but is  
512 not yet 18 years of age, the adequacy of the child's preparation  
513 for adulthood and independent living.

514 (l)~~(k)~~ If amendments to the case plan are required.

515 Amendments to the case plan must be made under s. 39.6013.

516 Section 5. Paragraph (f) of subsection (1) and paragraph  
517 (g) of subsection (4) of section 1003.21, Florida Statutes, are  
518 amended to read:

519 1003.21 School attendance.—

520 (1)

521 (f) Homeless children, as defined in s. 1003.01, and  
522 children who are known to the department, as defined in s.

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523 39.0016, must have access to a free public education and must be  
524 admitted to school in the school district in which they or their  
525 families live. School districts shall assist homeless children  
526 and children who are known to the department to meet the  
527 requirements of subsection (4) and s. 1003.22, as well as local  
528 requirements for documentation.

529 (4) Before admitting a child to kindergarten, the principal  
530 shall require evidence that the child has attained the age at  
531 which he or she should be admitted in accordance with the  
532 provisions of subparagraph (1)(a)2. The district school  
533 superintendent may require evidence of the age of any child whom  
534 he or she believes to be within the limits of compulsory  
535 attendance as provided for by law. If the first prescribed  
536 evidence is not available, the next evidence obtainable in the  
537 order set forth below shall be accepted:

538 (g) If none of these evidences can be produced, an  
539 affidavit of age sworn to by the parent, accompanied by a  
540 certificate of age signed by a public health officer or by a  
541 public school physician, or, if neither of these is available in  
542 the county, by a licensed practicing physician designated by the  
543 district school board, which certificate states that the health  
544 officer or physician has examined the child and believes that  
545 the age as stated in the affidavit is substantially correct. A  
546 homeless child, as defined in s. 1003.01, and a child who is  
547 known to the department, as defined in s. 39.0016, shall be  
548 given temporary exemption from this section for 30 school days.

549 Section 6. Subsection (1) and paragraph (e) of subsection  
550 (5) of section 1003.22, Florida Statutes, are amended to read:

551 1003.22 School-entry health examinations; immunization

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552 against communicable diseases; exemptions; duties of Department  
553 of Health.—

554 (1) Each district school board and the governing authority  
555 of each private school shall require that each child who is  
556 entitled to admittance to kindergarten, or is entitled to any  
557 other initial entrance into a public or private school in this  
558 state, present a certification of a school-entry health  
559 examination performed within 1 year prior to enrollment in  
560 school. Each district school board, and the governing authority  
561 of each private school, may establish a policy that permits a  
562 student up to 30 school days to present a certification of a  
563 school-entry health examination. A homeless child, as defined in  
564 s. 1003.01, and a child who is known to the department, as  
565 defined in s. 39.0016, shall be given a temporary exemption for  
566 30 school days. Any district school board that establishes such  
567 a policy shall include provisions in its local school health  
568 services plan to assist students in obtaining the health  
569 examinations. However, any child shall be exempt from the  
570 requirement of a health examination upon written request of the  
571 parent of the child stating objections to the examination on  
572 religious grounds.

573 (5) The provisions of this section shall not apply if:

574 (e) An authorized school official issues a temporary  
575 exemption, for a period not to exceed 30 school days, to permit  
576 a student who transfers into a new county to attend class until  
577 his or her records can be obtained. A homeless child, as defined  
578 in s. 1003.01, and a child who is known to the department, as  
579 defined in s. 39.0016, shall be given a temporary exemption for  
580 30 school days. The public school health nurse or authorized

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581 private school official is responsible for followup of each such  
582 student until proper documentation or immunizations are  
583 obtained. An exemption for 30 days may be issued for a student  
584 who enters a juvenile justice program to permit the student to  
585 attend class until his or her records can be obtained or until  
586 the immunizations can be obtained. An authorized juvenile  
587 justice official is responsible for followup of each student who  
588 enters a juvenile justice program until proper documentation or  
589 immunizations are obtained.

590 Section 7. Subsections (3) and (4) are added to section  
591 1003.57, Florida Statutes, to read:

592 1003.57 Exceptional students instruction.-

593 (3) (a) For purposes of this subsection and subsection (4),  
594 the term:

595 1. "Agency" means the Department of Children and Family  
596 Services or its contracted lead agency, the Agency for Persons  
597 with Disabilities, and the Agency for Health Care  
598 Administration.

599 2. "Exceptional student" means an exceptional student, as  
600 defined in s. 1003.01, who has a disability.

601 3. "Receiving school district" means the district in which  
602 a private residential care facility is located.

603 4. "Placement" means the funding or arrangement of funding  
604 by an agency for all or a part of the cost for an exceptional  
605 student to reside in a private residential care facility and the  
606 placement crosses school district lines.

607 (b) Within 10 business days after an exceptional student is  
608 placed in a private residential care facility by an agency, the  
609 agency or private residential care facility licensed by the

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610 agency, as appropriate, shall provide written notification of  
611 the placement to the school district where the student is  
612 currently counted for funding purposes under s. 1011.62 and the  
613 receiving school district. The exceptional student shall be  
614 enrolled in school and receive a free and appropriate public  
615 education, special education, and related services while the  
616 notice and procedures regarding payment are pending. This  
617 paragraph applies when the placement is for the primary purpose  
618 of addressing residential or other noneducational needs and the  
619 placement crosses school district lines.

620 (c) Within 10 business days after receiving the  
621 notification, the receiving school district must review the  
622 student's individual educational plan (IEP) to determine if the  
623 student's IEP can be implemented by the receiving school  
624 district or by a provider or facility under contract with the  
625 receiving school district. The receiving school district shall:

- 626 1. Provide educational instruction to the student;  
627 2. Contract with another provider or facility to provide  
628 the educational instruction;  
629 3. Contract with the private residential care facility in  
630 which the student resides to provide the educational  
631 instruction; or  
632 4. Decline to provide or contract for educational  
633 instruction.

634  
635 If the receiving school district declines to provide or contract  
636 for the educational instruction, the school district in which  
637 the legal residence of the student is located shall provide or  
638 contract for the educational instruction to the student. The

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639 school district that provides educational instruction or  
640 contracts to provide educational instruction shall report the  
641 student for funding purposes pursuant s. 1011.62.

642 (d)1. The Department of Education, in consultation with the  
643 agencies and school districts, shall develop procedures for  
644 written notification to school districts regarding the placement  
645 of an exceptional student in a residential care facility. The  
646 procedures must:

647 a. Provide for written notification of a placement that  
648 crosses school district lines; and

649 b. Identify the entity responsible for the notification for  
650 each facility that is operated, licensed, or regulated by an  
651 agency.

652 2. The State Board of Education shall adopt the procedures  
653 by rule pursuant to ss. 120.536(1) and 120.54 and the agencies  
654 shall implement the procedures.

655  
656 The requirements of paragraphs (c) and (d) do not apply to  
657 written agreements among school districts which specify each  
658 school district's responsibility for providing and paying for  
659 educational services to an exceptional student in a residential  
660 care facility. However, each agreement must require a school  
661 district to review the student's IEP within 10 business days  
662 after receiving the notification required under paragraph (b).

663 (4) The Department of Education and agencies shall enter  
664 into an agreement for interagency coordination regarding the  
665 placement of exceptional students in residential facilities,  
666 consistent with federal law and regulations, on or before  
667 January 1, 2010. The agreement shall identify the

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668 responsibilities of each party and ensure that students receive  
669 special education and related services necessary to receive a  
670 free appropriate public education. The agreement shall also  
671 establish procedures for:

672 (a) Resolving interagency disputes;

673 (b) Ensuring the provision of services during the pendency  
674 of a dispute; and

675 (c) Ensuring continued Medicaid eligibility as deemed  
676 appropriate.

677 Section 8. This act shall take effect July 1, 2009.